

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF THE CITY OF MURRIETA, CA

These Comments are filed by the City of Murrieta, CA, in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, the City of Murrieta believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in the City of Murrieta

Community Information

Murrieta is a Southern California city with a population of 90,000. Our franchised cable providers are Comcast and Adelphia. The city inherited two franchises upon its incorporation in 1991, both of which have been renewed since that time, and it has processed numerous transfers of those franchises as ownership changed over the years. Both companies are franchised to serve the entire community, but have never done so, declining to overbuild in the other's turf and compete for subscribers.

Competitive Cable Systems

The City of Murrieta granted a competitive franchise to Verizon of California, a cable overbuilder, in 2005. To this point, Verizon has yet to provide cable service locally, and the company has indicated it likely will not do so until the third quarter of 2006.

Verizon formally applied for the franchise on February 17, 2005, and the City Council unanimously approved the agreement September 6, 2005.

The company had informally approached the city some months before applying, but did not want its intentions known to competitors. It wished to negotiate an agreement in advance of formally applying. The city's position was that Verizon's plans were well known to competitors -- the company's plans had been disclosed nationally and the firm was already tearing up the local landscape to lay its fiber network -- so the

city eventually told the firm it would have no further discussions until an application was filed.

The negotiations were cordial, and as with most cable franchises, could have been completed in a relatively short time frame – weeks rather than months or years -- if all parties were motivated to do so. There are not that many issues to deal with.

Since the city already held two franchises, one of which had been renewed only a year earlier, it desired an agreement with Verizon that was comparable in its major provisions. For the most part, agreement was easily reached. Each side, however, had a handful of points important to them that needed resolution. A good deal of the negotiating was done via email and phone; there were relatively few face-to-face meetings.

It is important to note that while Verizon viewed the negotiations as urgent, they have yet to begin marketing cable service six months after the franchise's approval. They have indicated it will probably be close to a year following franchise agreement before service is offered. It hardly seems fair to argue the process slows down a competitor.

While the city did not solicit competition, it certainly encouraged Verizon's arrival, as well as its fiber network, and the elected leaders were cooperative throughout the process, voting unanimously to approve the franchise without delay despite opposition from Comcast and Adelphia.

Verizon has been wiring the entire community for fiber access to all properties and is already selling Internet service, which has been well received. The city strongly supports competition, though retention of control over its rights-of-way is critical. The city's experience with Verizon and its construction of the fiber network offers ample evidence of why this is important.

The city expedited an encroachment permit for the fiber installation and even gave the project priority status for inspection purposes. The company, anxious to build the system in a year (it didn't), imported large numbers of contractors from out of state and failed or was unable to properly supervise the crews. The result was large numbers of complaints from residents about the crews, their treatment of residents, and the state in which they left property. This experience was not universal throughout the city, though it was far too plentiful.

Conclusions

The local cable franchising process functions well in Murrieta. As the above information indicates, the city is experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights-of-way in a fair and evenhanded manner, that other users of the rights-of-way are not unduly inconvenienced, and that uses of the rights-of-way, including maintenance and upgrade of facilities, are undertaken in a manner which is in

accordance with local requirements. Local cable franchising also ensures that Murrieta's specific needs are met and that local customers are protected. Who would have protected community property during the Verizon installation had local authority been taken by the Federal government?

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including Murrieta, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Murrieta therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

City of Murrieta, CA

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